

## **REMARKS/ARGUMENTS**

Applicants acknowledge receipt of the Office Action dated March 29, 2006. By this Response, claims 1-3, and 7 have been amended. Claims 1-8 are pending in the application. In the Office Action, the Examiner has rejected claims 1-8 as being indefinite under 35 U.S.C. 112, second paragraph for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner also has rejected claims 1-4, 7, and 8 under 35 U.S.C. § 102(b) as being unpatentable over Seregi, U.S. Patent No. 1,965,262 ("*Seregi*"). Moreover, the Examiner has rejected claims 5 and 6 under 35 U.S.C. § 103(a) as being unpatentable over either *Seregi* in view of Peterson, U.S. Patent No. 5,062,464 ("*Peterson*"). Applicants have amended the claims as set out above and believe all pending claims are allowable over the art of record. Applicants therefore respectfully request reconsideration and allowance of all claims.

### **I. Claims 1-8 are not indefinite.**

The Examiner has rejected claims 1-8 as being indefinite under 35 U.S.C. 112, second paragraph. Specifically, the Examiner states that the term "similarly" is ambiguous. In response, Applicant has amended the claims to remove the term "similarly." In claim 1, the phrase "each panel secured to a pair of similarly located members in adjacent trains, the panels secured to similarly located pairs of opposed sides of the diamond" has been amended to read "each panel secured to a pair of confronting members in adjacent trains, the panels secured to corresponding pairs of opposed sides of the diamonds." Support for this amendment can be found in paragraphs [0018] and [0022] of the Specification and in Figure 1. "Similarly" has likewise either been removed or replaced with other language in claims 2, 3, and 7 to better define the invention. As such, Applicant believes that the claims are now in condition for allowance and respectfully request withdrawal of the rejection.

### **II. Claims 1-4, 7, and 8 are not anticipated by *Seregi*.**

#### ***Seregi* does not teach a retractable partition wall**

The Examiner rejected claims 1-4, 7, and 8 as being anticipated by *Seregi*. Applicants

respectfully submit that, in the first analysis, *Seregi* does not anticipate a partition wall that is upwardly movable into storage position, as set out in the preamble of the present claims. It is well established that, as set out at MPEP 2111.02:

"[A] claim preamble has the import that the claim as a whole suggests for it." *Bell Communications Research, Inc. v. Vitalink Communications Corp.*, 55 F.3d 615, 620, 34 USPQ2d 1816, 1820 (Fed. Cir. 1995). "If the claim preamble, when read in the context of the entire claim, recites limitations of the claim, or, if the claim preamble is 'necessary to give life, meaning, and vitality' to the claim, then the claim preamble should be construed as if in the balance of the claim." *Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1305, 51 USPQ2d 1161, 1165-66 (Fed. Cir. 1999).

In the present case, the preamble recites a partition wall that is upwardly movable into storage position. By definition, such a wall cannot include components such as tracks or guides that extend downward through the wall space even when the wall is retracted. The *Seregi* window blind requires the use of side tracks, slides, and screws that permanently define the extended space of the blind. Such a system could not realistically be used to form a wall, because the tracks for each segment would extend downward into the space.

To explicitly emphasize this feature of the invention, a new claim (9) has been added, which applicant submits is allowable over the art.

#### ***Seregi* does not teach a planar wall**

In addition, Applicants have amended claim 1 and respectfully traverse the rejection of claims 1-4, 7, and 8 on the grounds that *Seregi* does not teach a device in which the panels align "flushly to form a vertical wall when the pantographs are elongated and the wall is in the down position." In order to establish a *prima facie* case of anticipation, the Examiner must show that each and every element of the claims is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). If a single element is not found in the prior art reference, the claims are not anticipated. Applicants submit that claims 1-4, 7, and 8 are not anticipated by *Seregi* because *Seregi* fails to disclose each and every limitation of these claims.

As amended, claim 1 recites "a plurality of panels . . . the panels aligning flushly to form a

vertical wall when the pantographs are elongated and the wall is in the down position.” This concept is illustrated in Figure 3 of the present application.

Nothing in *Seregi* discloses panels that align to form a vertical wall when the pantographs are elongated. To the contrary, *Seregi* is directed to a sunshade that can be retracted or *partially* extended. For example, *Seregi* discloses that “when the lazy tongs are completely extended all of the sun ray frames slidably overlap when viewing from the horizontal.” (p. 3, ll. 38-41). *Seregi* also states that “[a] desirable position for the sun shade will be one in which all of the sun ray frames are arranged at *an inclination to the vertical* to allow the passage of air.” (p. 3, ll. 54-69; Figures 2-3) (emphasis added). Applicant believes that the Examiner may have mistakenly interpreted Figure 3 of *Seregi* as depicting a vertical wall. However, Applicant submits that Figure 3 merely is a front view of Figure 2 in which the sun ray frames are clearly at an inclination to the vertical. (p.1, ll. 57-60; Figure 2-3). Thus, *Seregi* effectively teaches away from flush alignment of the sun ray frames.

Moreover, *Seregi* teaches that a stiff spring 17 is provided between the arms at the upper end of each lazy tong 15. The springs urge the upper ends of lazy tongs *away* from each other to facilitate retraction of the blinds. (p. 2, ll. 5-14; Figure 4-6) (emphasis added). In order for the sun ray frames to form a flush vertical wall, the lazy tongs 15 would have to be more extendible than they are. Applicant submits that it would be impossible to fully extend *Seregi*’s lazy tongs 15 because of the presence of spring 17, which would prevent the arms of tongs 15 from coming fully together in the manner illustrated in Figure 3 of the present application. In view of the foregoing, Applicants submit that *Seregi* does not disclose each and every limitation of the present claims.

For at least the reasons noted above, claim 1 is not anticipated by *Seregi* and Applicants respectfully request allowance of claim 1. Because claims 2-4, 7, and 8 depend from independent claim 1, Applicants respectfully submit that these dependent claims are also allowable. Moreover, these claims include additional features that are not disclosed by the cited reference and are therefore allowable for this reason as well. Accordingly, the Applicants respectfully request that these rejections be withdrawn.

In addition, claim 8 has been amended to recite that the elongated members are arranged and

attached such that panels form a double wall having a dead space therein when the trains are in down position. Applicants respectfully submit that the *Serengi* device does not form a double wall. Each sun ray frame of *Serengi* comprises a single panel of “transparent material 47,” which is held in the frame by its edges. The *Serengi* device does not form a dead space in either the up or down position. Therefore, claim 8 is further distinguishable over the reference.

### **III. Claims 5 and 6 are patentable over *Seregi* in view of *Peterson***

Claims 5 and 6 are rejected as being obvious over *Seregi* in view of *Peterson*. Applicants respectfully traverse. Because the Examiner has failed to show that independent claim 1 is obvious in view of the prior art and because claims 5 and 6 depend from claim 1, claims 5 and 6 are allowable for the reasons set out above. Moreover, these claims include additional features that are not disclosed by the cited reference. Therefore, the Applicants respectfully request withdrawal of these rejections.

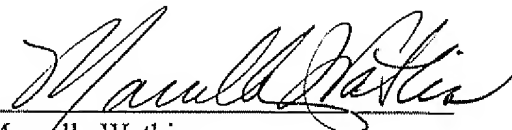
### **IV. Conclusion**

Applicants respectfully request reconsideration, allowance of the pending claims and a timely Notice of Allowance be issued in this case. If the Examiner feels that a telephone conference would expedite the resolution of this case, the Examiner is respectfully requested to contact the undersigned.

In the course of the foregoing discussions, Applicants may have at times referred to claim limitations in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. Moreover, it should be understood that there may be other distinctions between the claims and the prior art that have yet to be raised, but which may be raised in the future.

If any fees are inadvertently omitted or if any additional fees are required or have been overpaid, please appropriately charge or credit those fees to Conley Rose, P.C. Deposit Account Number 03-2769.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Marcella Watkins", written over a horizontal line.

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